

REMARKS

In the Office Action, the Examiner required restriction to one of the following inventions under 35 U.S.C. §121:

I. Claims 1-4, drawn to a diagnostic method based on the amounts of biogenic amines, classified in class 436, subclass 111.

II. Claims 5-10, drawn to a method for the diagnosis of bacterial vaginosis, classified in class 436, subclass 811.

III. Claims 11-20, drawn to a diagnostic apparatus, classified in class 422, subclass 68.1+.

In response, Applicants hereby elect the invention of Group I, corresponding to pending claims 1-4. Applicants reserve the right to file one or more divisional applications corresponding to the non-elected claims. Applicants also traverse the Restriction Requirement as it applies to the claims of Groups I and III. Additionally, Applicants have made certain amendments to the elected and non-elected claims. Applicants submit that these amendments have not changed the nature of the classification of claims 1-4, drawn to a diagnostic method based on the amounts of biogenic amines hereby elected. Claims 5-10 have been amended, among other things, to depend from claim 1, and are now drawn to the elected method of Group I. Claims 11-20 remain drawn to a diagnostic apparatus.

Claim 1 has been amended in the preamble to substitute the recitation "diagnostic method" for "A method for the evaluation of a biological sample", and, accordingly, to delete the recitation "diagnostic" from the remainder of the claim. Support for this amendment is found in the specification of the present application. No new matter has been added.

Claim 1 has also been amended to include the step of "carrying out on said sample an ion mobility measurement". This element relates to a corresponding apparatus element in unelected claim 11 of Group III. Support for this amendment is found in the application. No new matter has been added. This amendment provides the basis for traversal

of the Restriction Requirement as it applies to the claims of Groups I and III. Pursuant to this amendment, it is submitted that the method claims of Group I are no longer patentably distinct from the apparatus claims of Group III. Therefore, the Restriction Requirement as to the claims of Group I and Group III is believed to be obviated, and as such, kindly requested to be withdrawn.

Claims 5-10 have been amended to depend from claim 1 and therefore become part of elected Group I. The examiner originally required restriction between Groups I and II because the methods had different modes of operation. The amendment requiring that claims 5-10 be dependent upon claim 1 removes the basis for the Restriction Requirement as to the claims of Groups I and II.

In light of the aforementioned election of the claims of Group I, the amendments to the claims submitted herein, and the traversal of the restriction directed to the claims of Groups I and III, it is respectfully submitted that prosecution on the merits with respect to claims 1-21 should now be permitted to proceed.

In the event any fee is due in connection with the present response, the Examiner is authorized to charge Applicant's Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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